



COMMONWEALTH of VIRGINIA
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MEMORANDUM

FROM: Ross Phillips
Senior Assistant Attorney General, Chief

TO: Michael Rolband, Director
Department of Environmental Quality

DATE: December 9, 2022

RE: Review of Repeal of Part VII of 9VAC5-140; Adoption of 9VAC5-140-6445

Please note that this memorandum does not constitute an opinion, formal or informal, of the Attorney General. Rather, this memorandum contains the legal analysis of the individual staff member providing it.

In response to a request from the Department of Environmental Quality, I have reviewed the above-referenced regulations of the Air Pollution Control Board.

The Air Pollution Control Board has the authority to amend its regulations. *See* Va. Code §§ 10.1-1308, 10.1-1322.3. After reviewing the proposed regulation, it is my opinion that the Air Pollution Control Board has the authority to repeal Part VII of 9VAC5-140, and to adopt the proposed section, 9VAC5-140-6445 (“Transition to repeal”).